THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :9066 of 2007

DATED:26-04-2007

Tadaparti Vijaya Venkata Hari Kishore.

..... PETITIONER

AND

The Superintendent of Police,
Eluru,
West Godavari District & 3 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner; as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents in summoning the petitioner and his family members regularly to the police station and detaining them hours together, as illegal, arbitrary, and consequently direct the respondents not to interfere with the personal life and liberty of the petitioner except according to the procedure established by law.

3. It is the case of the petitioner that there are certain disputes between himself and his wife-V.V.S.Padmavathi and in that connection he filed O.P.No.24 of 2006 on the file of the Principal Senior Civil Judge, Eluru seeking dissolution of marriage which was decreed on 12-04-2006 and thereafter his wife filed a private complaint based on which a case in Cr.No.20 of 2007 was registered for the offences punishable under Section 498-A r/w 34 IPC and he has obtained anticipatory bail. It is submitted that thereafter his divorced wife and her brother lodged a complaint on 12-02-2007 before the 3rd respondent stating that the child born out of the wedlock of V.V.S.Padmavathi and the petitioner, namely Tadiparthi Swarup Srirama Murthy, aged 3 years, was missing and

the petitioner has taken away him forcibly based on which a case in Cr.No.22 of 2007 was registered under the head 'boy missing' by the 3rd respondent and in that connection 4th respondent-brother-in-law of the petitioner also filed W.P.No.6225 of 2007 in which the 3rd respondent filed counter stating that they are making hectic efforts to trace the boy and in that connection police are unnecessarily interfering with the personal life and liberty of the petitioner at the instance of the 4th respondent and pressurizing him to pay a sum of Rs.5,00,000/- to settle the matter.

4. I am of the opinion that without there being any request or representation, with regard to the alleged illegal act of the respondents 3 and 4, before the higher police officials, particularly before the Superintendent of Police, the said allegations made for the first time in the Writ Petition cannot be considered as true and correct. To issue a writ of mandamus there should be a request to command or direct the concerned to do or not to do a particular act. Therefore, without making any representation the petitioner is not entitled to any relief in this Writ Petition.

5. Accordingly, the Writ Petition is dismissed with a liberty to the petitioner to make appropriate representation before the Superintendent of Police against the alleged illegal act of the 4th respondent at the instance of the 3rd respondent. No order as to costs.

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V.ESWARAIAH,J

26th April, 2007.

Note:

Furnish C.C. of the order within three days

B/o

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